

ORDINANCE NO. 2019-05-31

REGULATIONS FOR TOWING AND PARKING ENFORCEMENT SERVICES. AN ORDINANCE AMENDING CHAPTERS 5.38 AND 10.46 IN THE AMERICAN FORK CITY CODE REGULATING TOWING AND PARKING ENFORCEMENT SERVICES, PROVIDING A SAVINGS CLAUSE AND EFFECTIVE DATE FOR THE ORDINANCE.

PREAMBLE

WHEREAS, the regulation of towing and parking enforcement services will give clear guidelines for both these services and the citizens of American Fork City;

WHEREAS, the American Fork Municipal Code presently contains criteria and procedures for regulating towing and parking enforcement services in the City; and

WHEREAS, the American Fork City Council finds that amending said ordinances would promote the public health, safety and welfare of the City.

NOW THEREFORE, be it ordained by the city council of American Fork, Utah, that:

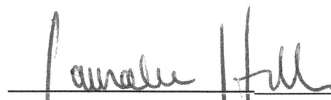
PART ONE

- I.** Chapter 5.38 be amended as set forth in Exhibit "A".
- II.** Chapter 10.46 be amended as set forth in Exhibit "B".
- III.** Effective Date. This ordinance shall take effect immediately upon its passage and adoption as prescribed by law.

Passed by the American Fork City Council this 28 day of May, 2019.


Bradley J. Frost, Mayor

ATTEST:


Lauralee Hill, Deputy Recorder

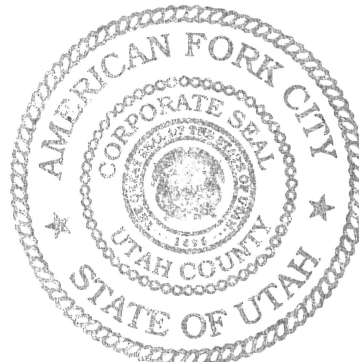


Exhibit "A"

CHAPTER 5.38 - TOWING AND PARKING ENFORCEMENT SERVICES

Sec. 5.38.010. - Definitions.

For the purposes of this chapter, the following words shall have the following meanings:

Authorized vehicle. A vehicle parked on private property for which permission has been granted to park such vehicle.

Boot. A device used by a towing or parking enforcement company to temporarily immobilize or disable a motor vehicle for purposes of enforcing parking restrictions.

Motor carrier. A person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property by a commercial vehicle on a highway within the state and includes a tow truck service business.

Parking enforcement operation. Providing parking enforcement services for compensation within the corporate limits of the city.

Parking enforcement service. The practice of immobilizing (booting) or otherwise disabling vehicles without the owner's consent for the purpose of enforcing parking restrictions on public streets, private property, or public parking lots restricted as to use.

Person. An individual, firm, partnership, corporation, company, association, or a joint stock association or venture.

Removal fee. A fee charged by a parking enforcer to remove an immobilization device.

Rotation list. A list of certified and licensed towing companies maintained by the American Fork police department. Such list is provided to motorists who request the names of towing companies from public safety officers.

Tow truck. A motor vehicle constructed, designed, altered, or equipped primarily for the purpose of towing or removing damaged, disabled, abandoned, seized, or impounded vehicles from a highway or other place by means of a crane, hoist, tow bar, tow line, dolly, tilt bed, or other means.

Tow truck service. The functions and any ancillary operations associated with recovering, removing, and towing a vehicle and its load from a highway or other place by means of a tow truck.

Towing operations. Providing tow truck services for compensation within the corporate limits of the city whether or not the towing extends beyond the city limits. Towing operations also include the storage of a towed vehicle pending its return to the owner thereof by the person or agent who towed the vehicle.

Sec. 5.38.020. - Certification and license/registration required.

1. It shall be unlawful for any person to engage in towing operations within the corporate limits of the city unless the person has been certified by the Utah Department of Transportation as a towing company. The city may revoke or suspend the business license of any towing company that fails to obtain or maintain a valid state certification, or if licensed elsewhere, may suspend or revoke the right to conduct towing services in the city.
2. Except as otherwise provided, it is unlawful for any person, tow truck motor carrier, or person with a place of business located in the city to conduct a towing or parking enforcement operation within the corporate limits of the city, unless the person performing such operation has a valid city business license to do so.
3. A tow truck motor carrier or parking enforcement service that has a county or municipal business license located within a county or municipality other than the city but within the state of Utah is not required to obtain a city business license to conduct towing operations within the city.
 - a. Notwithstanding the foregoing, a business which conducts towing operations within the city shall first provide the following information to the city business license office:
 - i. Business name, address, and telephone number;
 - ii. Evidence of a current business license issued by another municipality or a county;

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- iii. Current fee schedule;
 - iv. Identification of vehicle operators employed by the business;
 - v. Description, vehicle identification number, and license number of each tow truck used in the business; and
 - vi. Evidence of a surety bond of one thousand dollars from good and sufficient sureties.
- b. If any of the information set forth in subsection 3a. of this section changes, the business shall deliver current information to the city business license officer within ten business days following the change.
4. No city business license or registration is required to conduct a towing or parking enforcement operation authorized by the city police department.
5. Failure to comply with any provision of this section shall constitute grounds for suspension or revocation of the business license of any company licensed in the city, or if licensed elsewhere, shall be grounds to suspend or revoke the right to conduct parking enforcement or towing services in the city.

Sec. 5.38.030. - Business license/registration application.

1. An application for a business license or registration form shall be filed in writing with the city business office and shall include:
- a. The name and address of the applicant;
 - b. The business name, which cannot be substantially similar to the names of any city department responsible for parking enforcement or tow truck services, telephone number and principle place of business;
 - c. Identification, including name and birth date, of vehicle operators employed by the business;
 - d. A statement disclosing whether any person listed in the application or any driver employed by the business has ever been convicted of a felony or misdemeanor, and if so, the nature of the offense and where and when it was committed;
 - e. A valid driver's license and certification card issued by the state department of transportation for each tow truck driver;
 - f. Current department of transportation certificates for each tow truck motor carrier, tow truck, and driver;
 - g. A description, vehicle identification number, and license plate number of each tow truck and parking enforcement vehicle used in the business.
 - h. Competent evidence of a surety bond of one thousand dollars from good and sufficient sureties to ensure continued compliance with this chapter;
 - i. Competent evidence that the tow truck service business stores vehicles in a secure towing and impound yard within the city corporate limits that complies with state law and city development code; and
 - j. A list of current fees for all services performed by the business.
2. If any of the above information changes, the business shall deliver the current information to the city business office within ten business days following the change.
3. Failure to comply with or violation of the provisions of this chapter shall be grounds for denial, suspension, or revocation of any certification issued under this chapter.

Sec. 5.38.040. - Business license issuance and renewal.

Upon receipt of a complete application, a business license may be issued to a business which conducts towing or parking enforcement operations and which has a principal place of business within the corporate limits of the city.

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A business license issued under this chapter may be renewed by showing conformity with the provisions of this chapter.

Sec. 5.38.050. - Investigation by police department.

1. Each application for a license shall be referred to the police department which may investigate to determine compliance with the requirements of this section.
2. Background checks may be conducted on all employees of a business desiring to obtain a license under this chapter.
3. A business license may be denied if a background check discloses any of the following:
 - a. Conviction of a crime or any pending criminal citation or information not yet adjudicated involving moral turpitude, theft, narcotics, illegal drugs, DUI or property damage unless a period of not less than five years has elapsed from the date of the conviction or the date of release from confinement for such offense, whichever is later; or
 - b. Conviction of a felony for any reason unless a period of not less than ten years has elapsed since the date of conviction or the date of release from confinement for such offense, whichever is later.
4. Any person denied a business license may appeal such decision to the city council.

Sec. 5.38.060. - License fees.

A person desiring to provide towing services and/or parking enforcement services within the city shall have a valid business license; no additional fee shall be required. Applicants and registrants shall be responsible to provide a BCI background check to the police department.

Sec. 5.38.070. - Duty to possess and/or display license.

1. Every employee of a towing or parking enforcement business shall personally carry:
 - a. A valid Utah driver's license which allows for operation of a tow truck or parking enforcement vehicle;
 - b. In the case of tow truck operators only, evidence of a personal certification card issued by the Utah department of transportation;
 - c. Evidence of a valid business license or certificate issued by the city, if a license or certificate is required pursuant to this chapter; and]
 - d. A business identification card giving the name, address and phone number of the business and identifying the operator as an employee thereof.

Sec. 5.38.080. - Penalties

1. Failure to have a valid business license shall be punishable as provided in Section 5.04.320. Violation of any other provision of this chapter by any person, business, firm, partnership, association, joint venture, or corporation shall constitute an infraction.

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CHAPTER 10.46 - TOWING AND PARKING ENFORCEMENT OPERATIONS

Sec. 10.46.010 - Definitions.

The definitions set forth in 5.38.010 of this Code shall apply to this section.

Sec. 10.46.020. - Operations.

- A. *Towing generally* . An owner or person in lawful possession or control of real property may, to the extent authorized by this section, tow away or immobilize any unauthorized vehicle located on the property, an unauthorized vehicle is any vehicle parked or stopped in violation of private property parking regulations which govern parking for authorized tenants and visitors or which restrict parking in a loading zone, handicapped zone, fire lane, or a no parking zone.
- B. *Towing request* . No towing or parking enforcement business or its agent may conduct a towing or parking enforcement operation unless:
 - a. Authorized by the owner of the private property on which the vehicle is located, or the owner's agent; or
 - b. Requested by a peace officer or by an order of a person acting on behalf of a law enforcement agency.
- C. *Report towing to law enforcement* . Except as otherwise ordered by a peace officer or a person acting on behalf of a law enforcement agency, at least 15 (fifteen) minutes prior to commencing a towing operation without the vehicle owner's knowledge, the tow operator shall report their intent to tow the vehicle to the American Fork Police dispatcher. This report shall include the vehicle's description, including its vehicle identification number and license number or other identification number issued by a state agency, and the name of the person, firm, or corporation impounding or towing the vehicle. After performing a towing operation without the vehicle owner's knowledge, the tow operator shall report the towing of the vehicle to the American Fork City police dispatcher within the soonest of one hour or immediately upon arriving at the place of storage or impound of the vehicle. The report shall include:
 - a. The vehicle's description, including its vehicle identification number and license number or other identification number issued by a state agency;
 - b. The name of the person, firm, or corporation impounding or towing the vehicle;
 - c. The name of the person who requested removal of the vehicle;
 - d. The date, time, and location of the vehicle's removal;
 - e. Reason(s) for removal of the vehicle;
 - f. The location where the subject vehicle will be kept; and
 - g. A telephone number, staffed twenty-four hours a day, which an owner can call to arrange for release of the vehicle.
- D. *Towing criteria* . No towing or parking enforcement business or its agent may conduct a towing or parking enforcement operation other than on a vehicle which has been continuously parked for more than seventy-two hours, unless:
 - a. "No parking" areas, restricted parking spaces, and visitor parking spaces, if any, are clearly marked with signage installed in such a manner as to provide adequate notice to those utilizing the parked area, including marking of the boundaries between the subject parking lot and any adjoining parking lot owned by another person; and
 - b. A conspicuous sign posted at, or immediately adjacent to, each entrance to the property provides notice that unauthorized vehicles may be towed from the parking lot or immobilized. Each such sign shall:
 - i. Be at least eighteen inches by twenty-four inches in size;
 - ii. Give warning, in large reflective lettering, that unauthorized vehicles may be towed or immobilized;

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- iii. Give the name and telephone number of business(es) authorized to conduct a towing or parking enforcement operation on the property;
 - iv. State the fees charged for towing and parking enforcement operations; and
 - v. Be posted within approximately five feet of each entrance to a parking lot.
 - 1. For purposes of this subsection, a "parking lot entrance" shall mean any access allowing the entrance or exit of a vehicle between a private parking lot and a city street unless such access is not the property of the parking lot owner. In such case, parking lot entrance shall mean:
 - a. The intersection of the parking lot property line and the property line of the access point; or
 - b. Any privately owned road connected to a public right of way leading to the entrance of a parking lot located on private property;
 - 2. A sign posted directly over a driveway leading to an underground lot shall be deemed to meet the location requirements of this subsection;
 - 3. If signs cannot be posted within five feet from the entrance to a parking lot for reasons of practical difficulty (such as the necessity of drilling a hole through concrete, removing a tree or shrubs, or because of an immediately adjacent private driveway not owned by the owner of the parking lot), a sign may be placed as close as reasonably practicable to the parking lot entrance. However, no sign shall be further than thirty feet from the edge of the curb that borders the private property.
- E. *Towing and parking enforcement on private property* . No towing or parking enforcement business or its agent may conduct a towing or parking enforcement operation regarding a vehicle located on private property, unless:
- a. The owner of the subject real property or the owner's agent:
 - i. Conforms to the requirements of subsection E(b) and F of this section;
 - ii. Discloses, in writing, to each tenant of the property when the tenant first occupies the property:
 - 1. The rules which govern the use of parking areas;
 - 2. That parking a vehicle in violation of such rules may subject the vehicle to a towing or parking enforcement operation; and
 - 3. That the tenant may contest a towing or parking enforcement operation as provided in this chapter;
 - b. The towing or parking enforcement business or its agent conducting the operation:
 - i. Except as otherwise provided in subsection F of this section, receives from the property owner or the owner's agent, who shall not be affiliated in any way within the towing or parking enforcement business, a written or telephonic request for each towing or parking enforcement of a particular vehicle;
 - ii. Posts a copy of the towing or parking enforcement business's fee schedule in a prominent place at the location where vehicles are released from storage; and
 - iii. Maintains personnel authorized to release any vehicle to its owner twenty-four hours each day and who can respond within one hour of a request for release of a vehicle;
 - c. The towing or parking enforcement business employee who conducts, or attempts to conduct, a towing or parking enforcement operation:
 - i. Wears either:

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1. A readily identifiable shirt, blouse, or other top article of clothing with the name of the business and the first name of the employee contained thereon and readable from a distance of six feet; or
 2. A prominently visible identification badge on the front of employee's clothing with the name of the business and the first name of the employee contained thereon and readable from a distance of six feet;
- ii. Possess evidence of:
1. Either a written or telephonic towing or parking enforcement request form the property owner or the owner's agent, or the contract required by subsection F of this section and a license or certification as a American Fork City towing or parking enforcement business, and;
 2. The fee schedule required by subsection E(b)(ii) of this section;
- iii. Upon request, provides the name and telephone number of the property owner or owner's agent, and shows the evidence required by subsection E(c)(ii) of this section to:
1. A person whose vehicle is subject to the towing or parking enforcement operation; and
 2. Any law enforcement officer;
- iv. Prior to mechanically connecting a vehicle to a tow truck or booting a vehicle, documents, through the use of date and time stamped digital photography or digital video, the precise nature of the violation of the private property parking regulations; and
- v. Upon booting a vehicle, places a notice on the driver's door window which indicates:
1. In large letters (twenty-four to thirty-six font size), "This vehicle has been booted";
 2. The name and telephone number of the towing or parking enforcement business and the name of the person that immobilized the vehicle;
 3. A telephone number, staffed twenty-four hours a day, which the vehicle owner may call to arrange for release of the vehicle;
 4. Applicable fees; and
 5. The following statement:
 - a. A towing or parking enforcement business that tows or boots a vehicle unlawfully may be subject to criminal and civil penalties as provided in American Fork City Code Chapter 10.46.. A person whose vehicle is towed or booted shall be entitled, upon request, to the name and telephone number of the owner of the property or owner's agent where the tow or boot occurred.
- vi. Upon towing a vehicle, takes the vehicle directly to a storage lot within American Fork City that complies with the requirements of state law, this section, and American Fork City development code;
- vii. Once the vehicle is mechanically connected to the tow truck, the tow operator may only disconnect the vehicle:
1. Upon arrival at the storage lot;
 2. To release the vehicle to the driver, owner, or owner's agent; or
 3. To abandon the tow and leave the vehicle where the tow operator originally found it.
- viii. Any towing or parking enforcement business or its agent conducting a towing or parking enforcement operation of a vehicle located on private property shall:

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1. Maintain the documentation required under subsection E(c)(iv) of this section for no less than one year;
 2. Make available, prior to taking payment for the towing or parking enforcement operation, a copy of the documentation required under subsection E(c)(iv) of this section, upon request by any of the following:
 - a. The driver or owner of the vehicle that was subject to the towing or parking enforcement operation, or the owner's agent; and
 - b. Any law enforcement officer; and
 - ix. Prior to taking any payment related to a towing or parking enforcement operation, provide the driver or owner of the towed or booted vehicle, or the owner's authorized agent, with a statement of the owner's rights regarding towing and parking enforcement operations that has been approved by American Fork City administration.
- F. *Towing request exemption* . The written or telephonic request required under subsection E of this section prior to initiating a towing or parking enforcement operation is not required if all of the following requirements are met:
- a. The towing or parking enforcement business or its agent conducting the towing or parking enforcement operation has been designated as a American Fork City qualified towing or parking enforcement business by the city administrator, or the city administrator's designee;
 - i. A licensed towing or parking enforcement business may seek this qualification by completing and signing a written application on a form provided by the city.
 - ii. The licensed applicant business may be granted this qualification upon satisfying the city administrator, or the city administrator's designee, that the applicant's business operations comply with all of the contractual obligations required under subsection F(c) of this section.
 - b. The owner of the property where the towing or parking enforcement operation takes place complies with all the contractual obligations required under subsection F(c) of this section; and
 - c. The towing and parking enforcement business and the private property owner must have, and comply with, a contract that contains provisions documenting and requiring all of the following:
 - i. A right of appeal to the property owner by the owner or operator of the vehicle booted or towed;
 - ii. The right of the property owner to grant the appeal and waive part or all of the fees and charges incurred by the appellant;
 1. A documented plan for providing adequate visitor parking;
 2. Reasonable, as determined by the city administrator or the city administrator's designee, temporary permit parking on a 24/7 availability basis for any property where the owner requires permit parking;
 3. Signage that, in the city administrator or city administrator's designee's reasonable opinion, provides fair notice to all persons of all limitations on parking on the property; and
 4. A limitation of the towing or parking enforcement operator's total maximum fees and charges for booting or otherwise immobilizing a vehicle to sixty dollars and the total maximum fees and charges for towing a vehicle to one hundred seventy-five dollars, including the first day of storage (subsequent days of storage may be charged in accordance with the rules and rates set forth in rule R909-19-13, Utah administrative code).
 - d. It is a violation of this section to conduct a towing or parking enforcement operation without a written or telephonic request pursuant to this subsection F if either party to a contract described

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in subsection F(c) of this section fails to comply with a contract provision required under subsection F(c) of this section.

- e. Appeals by towing or parking enforcement operators or property owners of decisions by the city administrator, or the city administrator's designee, made under this subsection F(c) may be appealed to the city council.
- G. *Towing a booted vehicle* . A booted vehicle may not be removed from the site sooner than two hours after the time of booting.
- H. *Payment for towed vehicle* . Except as otherwise provided in this section, a towing or parking enforcement business conducting a towing or parking enforcement operation pursuant to this section shall release the subject vehicle to its owner or agent immediately upon payment of applicable fees authorized by this section or by rule R909-19, Utah administrative code, as amended.
 - a. The towing or parking enforcement business shall accept payment offered in cash or by major credit card, but shall not be obligated to accept checks or payment in coins and shall maintain sufficient cash on hand to make change of up to forty dollars.
 - b. Every towing or parking enforcement business providing services pursuant to this subsection shall post in a conspicuous place upon its business premises a true copy of this section.
 - c. A parking enforcement business shall be limited to a maximum Immobilization/booting fee, per vehicle, of fifty percent of the maximum towing rate for non-consent tows as provided in rule R909-19-12, Utah administrative code, and may not charge any other fee for a parking enforcement operation. If an immobilized vehicle is towed, no fee of any kind relating to booting may be charged in addition to towing, storage, or other applicable fees. If a vehicle is towed or booted unlawfully, no fee shall be payable.
 - d. If the vehicle owner or agent arrives at the vehicle before the towing or parking enforcement operator has mechanically connected the vehicle to a tow truck or booting device, the towing or parking enforcement operator shall:
 - i. Not continue to tow or boot the vehicle; and
 - ii. Not be entitled to tow or boot the vehicle or to charge any fee whatsoever if the vehicle is promptly removed from the premises.
 - e. If a tow truck is mechanically connected to a vehicle, the tow truck shall be in possession of the vehicle. If the vehicle owner or agent attempts to retrieve the vehicle before the vehicle is removed from the property, the maximum towing or parking enforcement fee shall not exceed fifty percent of the posted rate schedule.
 - f. No parking enforcement fee, other than fees authorized by this subsection, shall be charged as a condition of releasing a booted vehicle.
 - g. A vehicle shall be released immediately upon payment of any required fees authorized by this section.
- I. *No consideration for towing agreements* . Property owners, managers, or their agents shall not receive any consideration whatsoever from any towing or parking enforcement business in exchange for utilizing such business's services to tow or boot unauthorized vehicles from the owner's property or for entering into a services agreement with a towing or parking enforcement business.
- J. *Towing damages* . Any person acting to remove or otherwise disturb any vehicle parked, stalled, or otherwise left on privately owned or controlled property, and any person owning or controlling such private property, or either of them, shall be liable to the owner, owner's agent, or driver of a vehicle, or each of them, for consequential and incidental damages arising from any interference with the ownership or use of such vehicle which does not comply with the requirements of this section.
- K. *Boot removal* . Upon receiving a request by the vehicle owner or owner's agent to remove a boot the towing or parking enforcement business shall respond and remove the boot within thirty minutes.

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Sec. 10.46.030. - Rotation list.

- A. *Creation* . The chief of police or his designee shall create and administer a rotation list comprised of those towing companies who comply with all the terms of this chapter and Chapter 5.38 of the American Fork City Code and are authorized to respond to calls for service by the police department. One slot on the rotation list shall be given to each compliant company. To ensure a fair distribution of calls for service, however, companies with different names but which utilize the same employees, trucks, business offices or impound yards shall be treated as one company for purposes of the rotation list, and shall only have one slot on the list.
- B. *Duties of companies on the list* . In addition to any other requirements set forth in the American Fork City Code or required by federal or state law, a towing company, which has been placed on the rotation list, shall:
 - a. Respond to a call for service from the police department and arrive on scene within fifteen minutes of receiving the call. In the event that the company fails to arrive within fifteen minutes from receipt of the call, the police department shall be permitted to secure the services of an alternate company from the rotation list. The late-responding company shall not be entitled to any fee for a late response or costs and expenses incurred as a result thereof. Any company that fails to respond within the required fifteen minutes will be placed at the bottom of the rotation list. Only those tow truck companies that have been called from the rotation list may respond to a public safety request. Towing companies that have not been specifically called may not respond on behalf of another tow truck company, regardless of the circumstances. Responding tow truck companies that have not been called, shall be placed on the bottom of the rotation list.
 - b. Have a vehicle storage facility within the city corporate limits that has a fenced area, enclosed yard, or building. No vehicle may be moved to a location which is not within the city limits without the prior consent of the owner or operator of the vehicle. Such vehicle storage facility must comply with all state requirements.
 - c. Have the capability of transporting abandoned or inoperable vehicles.
 - d. Clean up any mess, debris, rubble or any other items that may be located on the roadway or in the immediate vicinity of the location from which an abandoned or inoperable vehicle is to be towed. To achieve this requirement, and in addition to any other state or administrative requirements, the tow truck must be equipped with adequate equipment and materials to clean up the area. Failure to clean up the area is a violation of this section and can result in being removed from the rotation list.
 - e. Ensure that all its authorized agents agree to follow the instructions or orders of a public safety officer at the towing scene.
 - f. Comply with all federal, state, and local requirements governing parking enforcement and towing companies.
- C. *A towing company may voluntarily request in writing to be removed from the rotation list* . A towing company may lose the privilege of being on the rotation list and subject to removal from the rotation list for up to a twelve month period for any of the following reasons:
 - a. Failure to comply with any of the requirements of this chapter or Chapter 5.38 of the American Fork City Code;
 - b. A conviction of any of the towing company's employees of a crime involving moral turpitude, theft, narcotics, illegal drugs, DUI or property damage. A conviction includes the entry of a plea in abeyance; or
 - c. Being the subject of three or more complaints received within a ninety-day period that are later substantiated. A complaint is substantiated when the following occurs:
 - i. The complaint has been lodged against a towing company by the owner or the owner's agent of a motor vehicle that was towed or by a police officer;

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- ii. The police department has, within ten days of receiving the complaint, given the towing company written notice of the complaint that contains information about the vehicle that was towed, the date, time and place of the tow, and a statement of the complaint including the federal, state or local law or regulation that the towing company is alleged to have violated;
 - iii. The complaint has been investigated by the chief of police or his designee after having given the towing company ten days to respond in writing to the complaint; and
 - iv. The chief of police or his designee has determined the towing company violated any federal, state, or local law or rule regulating towing companies and has given the towing company written notice of his decision.
 - D. *Notice of removal* . Prior to removing a towing company from the rotation list for any of the reasons listed above, the chief of police or his designee shall give the towing company written notice of his decision to remove the company from the rotation list. The notice shall contain the basis for the decision; notice that the towing company will be removed from the rotation list, if applicable; and the conditions under which the towing company will be reinstated on the rotation list, if applicable.
 - E. *Appeal* . Any towing company that has been removed from the rotation list pursuant to this article may appeal to the city administrator or his designee the decision of the police chief or his designee's decision to remove the towing company from the rotation list. Any appeal must be in writing and filed with the city administrator or his designee within ten days of receiving notice of the removal. Within ten days of receiving a notice of appeal the city administrator or his designee shall render a decision upholding the removal or reinstating the towing company on the rotation list.
 - F. *Removal period and reinstatement* . Removal from the rotation list shall be for a ninety day period for the first removal within a three-year period. Removal from the towing rotation list shall be for one year for the second removal from the rotation list within three years of any prior removal. The date of removal shall be the later of ten days after the chief of police or his designee sends a notice of removal or the date the city administrator or his designee renders a decision in response to an appeal. Any towing company that has been removed from the rotation list may file a written request with the chief of police or his designee to be placed back on the list no sooner than ten days prior to the expiration of the removal period. The chief of police shall place the company back on the towing rotation list upon a showing that all previous problems for which the company has been removed have been corrected, and the company certifies it is willing and able to comply with all the requirements for being on the rotation list.
- Sec. 10.46.040. - Penalties.
- A. *Criminal penalties* . It shall be unlawful to:
 - a. Tamper with or remove from a vehicle a lawfully installed boot without the authorization of the towing or parking enforcement operator who applied the boot, which authorization shall not be withheld in violation of state or local law; and
 - b. To disconnect a vehicle mechanically connected to a tow truck without the authorization of the towing or parking enforcement operator lawfully in possession of the vehicle, which authorization shall not be withheld in violation of state or local law.
 - c. Violation of this subsection or any subsection or provision of this section by any person, business, firm, partnership, association, joint venture, or corporation is a class B misdemeanor.
 - d. Violation of any provision of Section 10.46.020 or Section 10.46.030(B) by any person, business, firm, partnership, association, joint venture, or corporation is an infraction.
 - B. *Civil penalties* . In addition to any other penalty, a civil action for damages or to abate a violation of this chapter may be brought by any aggrieved person.
 - a. A person who authorizes, tows, or immobilizes a vehicle from private property in violation of the provisions of this chapter is liable in a civil action for a penalty of up to five hundred dollars as the court may determine. A civil action under this subsection may not be commenced later than one hundred eighty days after occurrence of the violation.

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- b. Lack of compliance with the requirements of subsections D, E, and F of Section 10.46.020 shall be prima facie evidence of a violation of this section.
- c. The remedies provided for in this subsection shall be cumulative and not exclusive.
- C. Nothing in this section shall preclude prosecution of any crime, including, but not limited to, criminal mischief, fraud, and theft.
- D. Pursuant to Utah Code Ann. §77-32-301, American Fork City is required to provide for indigent legal defense if the violation includes any possibility of imprisonment.